

Application No.: 09/331729

Docket No.: 05587-00343-US

**REMARKS**

Applicant respectfully request reconsideration in view of the amendment and following remarks. Claims 35, 36, 38, 39, 41-47, 49-52, 55, and 56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The applicant respectfully traverses this rejection. Enclosed is a copy of an unexecuted Declaration which the undersigned has been informed has been executed by Dr. Klaus Berger. The Declaration establishes the evidence to show that one of ordinary skill in the art reading the patent specification of application serial no. 09/331729 would know that the January 1987 version of DIN 53461 was described in this application. The undersign will forward the executed declaration to the PTO when he receives it. For the above reasons, this rejection should be withdrawn.

Claim 52 is rejected under 35 U.S.C. 102(a) as being anticipated by WO 97/05529 (WO '529). Claims 53 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '529, as evidenced by applicants' admission at page 21 of the instant specification and Diamond, Handbook of Imaging Materials, pages 227 and 234, combined with U.S. Patent No. 5,487,965 (Odell). The applicant has cancelled these claims.

Claim 49 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,846,602 (Suwa) in view of Diamond, Handbook of Imaging Materials, pp. 168-169. Claim 49 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,790,577 (Nakamura) in view of Diamond, Handbook of Imaging Materials, page 169, section 4.2.3. The applicant respectfully traverses these rejections. However, in order to expedite prosecution the applicant has enclosed a terminal disclaimer which obviates these rejections.

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

A one month extension of time has been paid. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05587-00343-US from which the undersigned is authorized to draw.

Respectfully submitted,

By

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Enclosures: unexecuted Declaration from Dr. Berger  
Extension of time  
Terminal disclaimer